

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO**

**Clerk's Minutes  
Before the Honorable James O. Browning**

**CASE NO.**     19CR77-JB

**DATE:**   May 7, 2020

**TITLE:**   *USA v Nissen*

**COURTROOM CLERK:**   J. Wright

**COURT REPORTER:**   R. Brazil

**COURT IN SESSION:**   2:25PM-3:22PM

**TOTAL TIME:**   58 MINUTES

**TYPE OF PROCEEDING:**   Second MOTION for Psychiatric/Psychological Exam [Doc. 137]

**COURT RULING:**     MOTION AND RULING HELD IN ABEYANCE

**ATTORNEYS PRESENT FOR PLAINTIFF(S):**

**ATTORNEYS PRESENT FOR DEFENDANT(S):**

Paul Mysliwicz  
Alexander Uballez

Joe Romero

**PROCEEDINGS:**

2:25PM     COURT IN SESSION; COUNSEL ENTER APPEARANCES; DEFENDANT APPEARS IN CUSTODY.

2:25PM     MR. ROMERO ARGUES HIS MOTION. DEFENDANT STATES DEFENSE COUNSEL DOESN'T  
HAVE HIS PERMISSION TO ARGUE THE MOTION BUT THEN CONSENTS TO MR. ROMERO  
PRESENTING HIS MOTION.

2:29PM     DEFENDANT DISRUPTS THE PROCEEDINGS; COURT TRIES TO GET THE DEFENDANT TO  
UNDERSTAND THE PROCEEDINGS AND OFFERS TO LET HIM SPEAK LATER. DEFENDANT  
CONTINUES TO BE DISRUPTIVE; COURT ORDERS THE US MARSHALS TO REMOVE THE  
DEFENDANT FROM THE PROCEEDINGS. DEFENDANT IS REMOVED. DEFENSE COUNSEL  
CONTINUES THE PRESENTATION OF HIS MOTION.

2:37PM     AS THE COURT PROMISED, COURT HAS DEFENDANT RETURNED TO THE COURTROOM TO  
SPEAK. DEFENDANT STATES HE HAS NO RESPONSE; DEFENSE COUNSEL DIDN'T HAVE

PERMISSION TO FILE THE MOTION. DEFENDANT IS SEATED.

2:38PM GOVERNMENT RESPONDS AND DOES NOT OBJECT TO DEFENDANT BEING SENT TO AN FCI FOR EVALUATION AND TREATMENT.

2:58PM PROBATION STATES DEFENDANT HAS BEEN IN CUSTODY 16 MONTHS AND 9 DAYS

3:01PM DEFENSE STATES DEFENDANT'S MENTAL HEALTH STILL CONCERNS HIM AND SHOULD BE SENT TO BUTNER.

3:03PM GOVERNMENT HAS TWO OBJECTIONS TO THE MOST RECENT PSR.

3:05PM COURT IS INCLINED TO TAKE THE MOTION UNDER ADVISEMENT AND IS INCLINED TO SEND THE DEFENDANT TO BUTNER FCI.

3:11PM COURT ASKS DEFENDANT IF HE WILL TALK TO DR. BROVKO AGAIN. DEFENDANT ALLOCUTES BUT DOES NOT GIVE A STRAIGHT ANSWER. DEFENDANT SAYS HE WILL SPEAK WITH DR. BROVKO AND WILL BE COOPERATIVE.

3:18PM COURT WILL HAVE DR. BROVKO RETURN TO EVALUATE THE DEFENDANT.

3:19PM COURT ORDER DR. BROVKO TO EVALUATE THE DEFENDANT. COURT WILL HOLD THE MOTION IN ABEYANCE UNTIL AFTER THE EVALUATION. DEFENSE COUNSEL WILL ADVISE COURTROOM DEPUTY AFTERWARD WHETHER A RULING ON THE MOTION IS NEEDED OR PROCEED TO SENTENCING.

3:21PM SENTENCING FOR TODAY IS VACATED AND WILL RESET AFTER THE EVALUATION.

3:22PM COUNSEL HAVE NOTHING FURTHER.

3:23PM COURT STANDS IN RECESS.